THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2824 OF 2007

DATED: 14-06-2007

BETWEEN

Madakalavaripalli Toddy Tappers
Cooperative Society, D.No.7/883,
Gopavaram Mandal, Kadapa District,
Rep. by its President Indluri Sudhakar
Goud, S/o. Subbaiah, R/o. Madakalavaripalli,
Gopavaram, Mandal, Kadapa District.

...PETITIONER

AND

The Prohibition & Excise Superintendent,
Kadapa, Kadapa District and another.

...RESPONDENTS

ORDER:

Petitioner-society seeks a Writ of Mandamus to declare the action of the respondents in stopping it from running the toddy shop of it's society orally without any notice and without any order as illegal and arbitrary.

2. Learned counsel for the petitioner-society submits that the petitioner-society was registered on 12.12.1990 and since then the members of the society are running the toddy shop at D.No.7/883, Madakalavaripalli Village, Gopavaram Mandal, Kadapa District within the Badvel Municipal limits. While so, the licence of the shop of the petitioner-society was suspended on 30.04.2005 on the ground of adulteration of toddy with Diazopam and accordingly a case in Cr.No.B1/234/2005 was registered. He further submits that the society removed its earlier managing committee and a new

managing committee was formed. It is stated that earlier the Prohibition and Excise Inspector, Badvel was appointed as the person in-charge of the society and thereafter the first respondent withdrew the orders appointing the second respondent as in-charge manager of the society vide order dated 30.04.2005. Thereafter, the Prohibition and Excise Superintendent, vide orders dated 08.08.2005 directed the new Managing Committee to run the business as per the rules with immediate effect until further orders.

3. Learned counsel for the petitioner-society further submits that the though the Prohibition and Excise Superintendent permitted the new Managing Committee of the petitioner-society to carry on the business, the respondents have asked the petitioner-society to stop the business from 01.09.2006 without issuing any notice and without passing any orders. Therefore, the petitioner-society made a representation dated 30.11.2006 to allow it to run the shop but the same has not been and disposed.

4. The petitioner-society has not at all enclosed a copy of the representation dated 30.11.2006. This Court by order dated 15.02.2007 directed the petitioner-society to file a copy of the licence to verify as to whether the cancellation of licence is existing or already expired, but the learned counsel for the petitioner-society has not been able to file any copy of the licence but states that no licence has been issued to the petitioner-society and the orders passed by the first respondent dated 08.08.2005 itself is a licence authorizing the petitioner-society to carry on the business.

5. Under the Andhra Pradesh Excise Act without grant of any licence by the Prohibition and Excise Superintendent, there cannot be any sale of toddy either by TCS or TFT or by any auction purchaser,
as such, without there being any licence, the petitioner-society cannot carry on the business. It is not known when the licence was granted and what is the period of the licence. Therefore, in the absence of material particulars, no relief can be granted to the petitioner-society.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

June 14, 2007
DSK